

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSE MANUEL DIAZ,

Plaintiff

v.

STATE OF NEVADA,

Defendant

Case No. 2:23-cv-00791-APG-DJA

**Order Directing Petitioner to File an
Amended Petition and Pay the Filing Fee
or File an *In Forma Pauperis* Application**

[ECF No. 1-1]

Pro se Petitioner Jose Manuel Diaz has filed a Petition for Writ of Habeas Corpus. ECF No. 1-1 (“Petition”). Diaz has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. I may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP application on the approved form and includes three specific documents: (a) the prisoner’s financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2. Diaz has until July 7, 2023, to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

Further, Diaz filed his Petition on a state-court postconviction form rather than the appropriate 28 U.S.C. § 2254 form. Diaz has until July 7, 2023, to file an amended petition on the appropriate form. In doing so, Diaz is advised to follow the instructions on the form, to

1 clearly title the amended petition as such, and to place the case number, 2:23-cv-00791-APG-
2 DJA, in the designated space.

3 I THEREFORE ORDER that on or before July 7, 2023, Petitioner Jose Manuel Diaz
4 must file an IFP application that includes: (a) a financial certificate signed by Diaz and an
5 authorized prison official, (b) a financial declaration and acknowledgement signed by Diaz, and
6 (c) a copy of Diaz's inmate account statement for the six-month period prior to filing.


7 Alternatively, Diaz must pay the \$5 filing fee on or before July 7, 2023. If Diaz decides to pay
8 the filing fee from his inmate account, he must arrange to have a copy of this order attached to
9 the check for the filing fee.

10 I FURTHER ORDER that Petitioner Jose Manuel Diaz must file an amended petition on
11 this Court's § 2254 form on or before July 7, 2023.¹ Diaz must label it "Amended Petition" and
12 place the case number, 2:23-cv-00791-APG-DJA, in the designated space.

13 I FURTHER ORDER the Clerk of Court to send Petitioner Jose Manuel Diaz (1) two
14 blank copies of the form petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 along
15 with instructions, (2) two copies of this order, and (3) a copy of the Petition [ECF No. 1-1].

16 Petitioner Jose Manuel Diaz's failure to timely comply with this Order will result in the
17 dismissal of this action without prejudice and without further advance notice.

18 DATED this 23rd day of May, 2023.

19
20 
21 ANDREW P. GORDON
22 UNITED STATES DISTRICT JUDGE

23 ¹Diaz at all times remains responsible for calculating the applicable statute of limitations. By ordering Diaz to amend his petition, I make no finding or representation that either the original or amended petition will be considered timely.